LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 55 LCA 1975.

Bangalore, dated 19/20th August 1975.

Ordered that the Constitution (Thirty-eighth) Amendment Act, 1975 published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 1st August 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
16 *Dept. of Law and Parliamentary Affairs.*

THE CONSTITUTION (THIRTY-EIGHTH AMENDMENT) ACT, 1975

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ACT

further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. **Short Title.**—This Act may be called the Constitution (Thirty-eighth Amendment) Act, 1975.

2. **Amendment of article 123.**—In article 123 of the Constitution, after clause (3), the following clause shall be inserted, and shall be deemed always to have been inserted, namely :—

"(4) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground".

3. **Amendment of article 213.**—In article 213 of the Constitution, after clause (3), the following clause shall be inserted, and shall be deemed always to have been inserted, namely :—

"(4) Notwithstanding anything in this Constitution, the satisfaction of the Governor mentioned in clause (1)

shall be final and conclusive and shall not be questioned in any court on any ground."

4. **Amendment of article 239B.**—In article 239B of the Constitution, after clause (3), the following clause shall be inserted, and shall be deemed always to have been inserted, namely :—

"(4) Notwithstanding anything in this Constitution, the satisfaction of the administrator mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground."

5. **Amendment of article 352.**—In article 352 of the Constitution, after clause (3), the following clauses shall be inserted, and shall be deemed always to have been inserted, namely:—

"(4) The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds being war or external aggression or internal disturbance or imminent danger of war or external aggression or internal disturbance, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.

(5) Northwithstanding anything in this Constitution,

(*a*) the satisfaction of the President mentioned in clause (1) and clause (3) shall be final and conclusive and shall not be questioned in any court on any ground ;

(*b*) subject to the provisions of clause (2), neither the Supreme Court nor any other court shall have jurisdiction to entertain any question, on any ground, regarding the validity of—

(*i*) a declaration made by Proclamation by the President to the effect stated in clause (1) ; or

(*ii*) the continued operation of such Proclamation.".

6. **Amendment of article 356.**—In article 356 of the Constitution, after clause (4), the following clause shall be

inserted and shall be deemed always to have been inserted, namely :—

"(5) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.".

7. **Amendment of article 359.**—In article 359 of the Constitution, after clause (1), the following clause shall be inserted, and shall be deemed always to have been inserted, namely :—

"(1A) While an order made under clause (1) mentioning any of the rights conferred by Part III is in operation, nothing in that Part conferring those rights shall restrict the power of the State as defined in the said Part to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the order aforsaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.".

8. **Amendment of article 360.**—In article 360 of the Constitution, after clause (4), the following clause shall be inserted and shall be deemed always to have been inserted, namely :—

"(5) Notwithstanding anything in this Constitution,—

(*a*) the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground;

(*b*) subject to the provisions of clause (2), neither the Supreme Court nor any other court shall have jurisdiction to entertain any question, on any ground, regarding the validity of—

(*i*) a declaration made by Proclamation by the President to the effect stated in clause (1); or

(*ii*) the continued operation of such Proclamation."